

Date: October 30, 2018

## **CASCADE COUNTY PLANNING BOARD**

**ITEM:** Conservation Easement –Schmit and Hammen

**ACTION REQUESTED:** Request for Comments from Cascade County Planning Board

**PRESENTED BY:** Michael Stone, Cascade County Planner

### **Review by local planning authority:**

*Pursuant to 76-6-206, MCA, "...all conservation easements shall be subject to review prior to recording by the appropriate local planning authority for the county within which the land lies... The local planning authority shall have 90 days from receipt of the proposed conveyance within which to review and to comment upon the relationship of the proposed conveyance to comprehensive planning for the area. Such comments will not be binding on the proposed grantor or grantee but shall be merely advisory in nature. The proposed conveyance may be recorded after comments have been received from the local planning authority or the local planning authority has indicated in writing it will have no comments or 90 days have elapsed, whichever occurs first."*

### **Conservation Easement Information:**

**Receipt:** September 19, 2018

**Status:** Proposed with drafted deed

**Grantor:** Debra K. Schmit and Nicholas A. Hammen

**Grantee:** Montana Land Reliance (MLR)

### **Subject property information:**

1. Township 17N, Range 1E, Section 5
  - Geocode: 02-2666-05-1-01-01-0000
  - Parcel No.: 0003269000
  - Zoning: Agricultural
  - Land use: Cropland
  - Area: 647.3 acres

2. Township 18N, Range 1E, Section 32 (Excepting therefrom Certificate of Survey No. 4693)
  - Geocode: 02-2775-32-1-01-01-0000
  - Parcel No.: 0003322400
  - Zoning: Agricultural
  - Land use: Grassland/pastureland
  - Area: 603.3 acre
3. Township 18N, Range 1E, Section 33, W½
  - Geocode: 02-2775-33-2-02-01-0000
  - Parcel No.: 0003323500
  - Zoning: Agricultural
  - Land use: Grassland/pastureland
  - Area: 314.9 acres

**Total area:** 1,584 acres

**Term of easement:** Perpetual

**Proximity to other conservation easements or other protected lands:** Three other conservation easements are within 4 miles (refer to vicinity map attachment).

**Area wildlife:** Deer, antelope, elk, bird species indigenous to grasslands, and the occasional bear

**Area topography:** Missouri River (west), Bird Creek Drainage (east), and foothills of the Big Belt Range (south), foothills of the Little Belt range (east), Square Butte and Shaw Butte (north).

**Existing Development:**

- None

**Allowed future development and uses on the property:**

- Three residential dwelling units and associated outbuildings each located within a 5-acre building envelope.
- The property could transfer as no more than three parcels.
- One residence and associated outbuildings would transfer with each division.

**Stated conservation contributions of the easement:**

1. *“The Protected Property includes significant open-space land as defined in the Montana Open Space Land and Voluntary Conservation Easement Act, Montana Code Annotated (MCA) Section 76-6-101, et seq.; and”*
2. *“Preservation of the Protected Property by this Easement will yield significant public benefits to the people of the State of Montana, Cascade County, and the United States by protecting, preserving, and providing the following significant resources, in perpetuity, in compliance with Section 170(h)(4)(A) of the Internal Revenue Code and Sections 76-6-101, et seq., MCA:”*
  - a. *“Open space lands, seventy percent (70%) of which are designated as agriculturally significant by NRCS, and which maintain the rural, agricultural, and natural scenic qualities of the area and provide opportunities to continue traditional farming and ranching practices in perpetuity, as encouraged and supported by federal tax policies including Section 170(b)(1)(E) of the Internal Revenue Code, and clearly delineated land conservation policies of the federal government and of the State of Montana, and local land conservation policies adopted in Cascade County, Montana...”*
  - b. *“Retention of important farmland, including prime, prime if irrigated, and important statewide and locally important soils, as designated by NRCS; and,”*
  - c. *“Scenic views of historic Montana landscapes and working agricultural lands in the Missouri River Valley, that are enjoyed by members of the general public traveling on Cascade Hound Creek Road, Castner Falls Road, and Armstrong Road, all public roadways that run near or border the Protected Property and provide unimpeded views of the Protected Property;”*
  - d. *“Retention of significant open space for a variety of other uses, including for the benefit of fish and wildlife, including elk, deer, antelope, and various bird species, all of which use the Protected Property;”*

### **Relationship with Cascade County Growth Policy:**

Staff interprets the proposed conservation easement as primarily facilitating the following Cascade County Growth Policy goals and objectives:

1. Goal 2, Objective A: “Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.

- a. Subdivision restrictions and limitations on residential development ensure that the 1,584 acre area will remain a three parcel, three residence area.
2. Goal 9, Objective A: “Encourage cooperation between new development and agricultural/forestry operations.”
  - a. Deed stipulations ensure cooperation between interests of the agricultural working landscape and limited residential development.

Staff interprets the proposed conservation easement as primarily detrimental to the following Cascade County Growth Policy goals and objectives:

1. Goal 3, Objective A: “Protect the most productive soils.”
  - a. The proposed ‘Development Envelopes’ are in areas where the soil has been identified as farmland of statewide importance. Other areas within the three parcels would be more optimal in protecting productive soils.
2. Goal 3, Objective C: “Protect the floodplain from non-agricultural development.”
  - a. Development area #3 is partially located in the floodplain and these areas are reserved for the allowed developments (refer to Development Map).

## **Conclusion**

The proposed conservation easement provides strong support for Cascade County Growth Policy Goals 2 and 9. However, the location and/or existence of the development areas, especially, development area #3 should be reconsidered due to their adverse impacts to Goal 3. Staff will forward any comments that the Planning Board has to the grantee.

Attachments: Vicinity Map, Property Map, Development Map, Prime Farmland Map, FEMA Firmette Map